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May 1, 2012

VIA FEDERAL EXPRESS & ELECTRONIC MAIL

Mr. James Carr
Office of General Counsel
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Dear Mr. Carr:

We are writing to request confirmation of the position of the Office of General Counsel regarding whether the Office and undersigned counsel may confer on the issues raised in *Time Warner Cable, Inc. and National Cable & Telecommunications Association v. Federal Communications Commission*, No. 11-4138 (2d Cir. filed Oct. 11, 2011) [hereinafter *Time Warner*]. In that proceeding, petitioners challenge among other matters the Commission's recent revisions to its program carriage rules on First Amendment grounds.

Petitioners' First Amendment arguments in *Time Warner* are similar to those made by Comcast Cable Communications in a matter pending at the Commission as to which a client of this firm is an adverse party, *The Tennis Channel, Inc. v. Comcast Cable Communications LLC* [hereinafter *Tennis Channel*]. It is possible that this client (with or without other parties) will seek to file an *amicus curiae* brief in support of the Commission's position in the *Time Warner* proceeding.¹

The Commission's rules expressly exempt from the *ex parte* rules presentations "made by or to the General Counsel and his or her staff" concerning "judicial review of a matter that has been decided by the Commission." 47 C.F.R. § 1.1204(a)(2). Discussion of the

¹ We note that the undersigned is also counsel for Game Show Network, LLC ("GSN") in *Game Show Network, LLC v. Cablevision Systems Corporation*, a matter that raises First Amendment arguments similar to those at issue in *Time Warner*. GSN does not currently intend to participate as an *amicus* in the *Time Warner* proceeding, and the undersigned is not presently authorized to represent GSN in that proceeding.

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Mr. James Carr

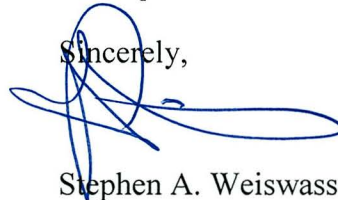
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positions taken in the *Time Warner* proceeding would fall within this exemption. Because there is substantial similarity in the arguments raised by the cable parties in the *Time Warner* and *Tennis Channel* proceedings, we seek confirmation that *ex parte* communications with members of the General Counsel's office responsible for briefing *Time Warner* will not constitute a violation of the *ex parte* rules as they apply in the *Tennis Channel* case.

Thank you for your consideration of this request.

Sincerely,



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